

March 17, 2015

April Abate, Paul Baker
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, UT 84114-84093

RECEIVED

MAR 20 2015

DIV. OF OIL, GAS & MINING

RE: M/047/0120 – TomCo Large Mining Operation - Wildlife Mitigation Plan language

Dear April and Paul,

In a letter to TomCo dated March 4, 2015, the Division of Oil, Gas and Mining (DOGM) approved proposed language for TomCo's Notice of Intent to Commence Large Mining Operations (LMO) regarding wildlife mitigation. The conceptual plan contained in the revised pages was developed in conjunction with the Utah Division of Wildlife Resources (UDWR). It commits TomCo to developing a more detailed wildlife mitigation plan with UDWR input for review and approval by DOGM. The plan will be incorporated into the LMO as an appendix prior to commencing significant ground disturbing activities.

Enclosed are two clean copies of the revised LMO text previously sent in draft form: pages 55, 55a, and 55b of TomCo's LMO.

If you have any questions or concerns about the enclosed pages, please contact me via email at msawyer@lowhamwalsh.com or by phone at 801-561-1036 x 6256 (office) or 307-349-3499 (cell).

Sincerely,



Marit Sawyer
Senior Scientist
Lowham Walsh LLC

enclosures: Revised LMO pages - wildlife mitigation

xc: Bill James – UDWR – w/ encl
Paul Rankine, Miikka Haromo – TomCo – w/ encl
Fran Amendola – Option A Consulting – w/ encl
Jason Moretz, Andy Strike – Lowham Walsh LLC – w/ encl

Mining operations, including blasting, described below, will be conducted in compliance with all applicable MSHA and Occupational Safety and Health Administration and safety regulations for the project.

Blasting Safety

Details of the blasting program are provided in **Section 106.2**. Blasting will be conducted in accordance with the Bureau of Alcohol, Tobacco, Firearms, and Explosives regulations that govern the storage, handling, and use of explosives. In addition, all applicable requirements of the State of Utah that address public health and safety will be met. Access to blasting areas will be properly marked and controlled to limit access to these areas by workers and the general public. Signs will be placed along Atchee Ridge Road, Fuller's Road, and/or Wolf's Den Road to alert people to impending blasting activities within 2 hours of commencing blasting when these areas are within 2,000 feet of a planned blast.

109.5: Actions to Mitigate any Referenced Impacts

Wildlife

The TomCo project area is located within critical winter habitat for mule deer (*Odocoileus hemionus*) and elk (*Cervus canadensis*). To minimize adverse impacts to these species caused by mining disturbance, TomCo will develop a wildlife mitigation plan (Plan) in cooperation with the Utah Division of Wildlife Resources (UDWR). The initial phase of the Plan will be finalized and ready for implementation prior to the commencement of significant ground-disturbing activities (i.e. road improvement, excavation for facilities or pits, etc.). A cooperative agreement among the involved parties will be executed at the time the Plan is finalized, as a vehicle for putting the Plan into action.

TomCo is working cooperatively with UDWR to identify specific locations and ways in which adverse impacts to mule deer and elk related to TomCo's mining operations and associated activities can be avoided, minimized or mitigated.

Because factors such as wildlife populations, forage production, weather, UDWR management objectives, and land use by other parties all vary over time, mitigation planning will proceed in phases. The initial wildlife mitigation plan will cover a five-year development horizon that begins when ground disturbing activities commence. The Plan will include provisions for evaluating the effectiveness of mitigation work, so that subsequent phases can be adaptive in response to what is learned during mitigation practice.

Different landscapes have different habitat values. While the project area generally contains valuable habitat and forage areas (i.e., swales and small drainages in side-slopes), some areas within the roughly 1,200 acre TomCo project area provide little cover or forage value for deer and elk (i.e., bald ridgetops). As part of Plan development, project areas will be cooperatively assessed to assign a habitat value to each acre.

Mitigation projects vary in their value to wildlife: some off-site mitigation projects may cover a small number of acres but improve habitat over a large number of acres. An example would be providing water collection structures (i.e., guzzlers, surface collection basins/sumps, etc.) in an area with forage but no water, or opening up portions of woodland to improve forage opportunities while maintaining cover values over a large area. TomCo and UDWR will include in the Plan a generalized mitigation value, in acres, for a range of potential mitigation activities to be conducted.

The need for further mitigation work during subsequent five-year periods will be determined jointly by TomCo and UDWR based on the progress or success of completed mitigation work, the number of acres planned for disturbance at TomCo during the next five-year period, and the habitat quality of those acres. As a starting assumption, both parties agree that an acre of directly impacted wildlife habitat results in a project-related need to mitigate a like amount of wildlife habitat in the Book Cliffs/Tavaputs Plateau area. Specific amounts, costs, and locations for compensatory mitigation will be jointly agreed to by the parties to the cooperative agreement which will guide implementation of the Plan.

Cultural/Historic Resources

TomCo completed a cultural resources inventory in 2013. No significant cultural resources were identified (Cardno-ENTRIX 2013b). The cultural resources report was submitted to SITLA and the State Historic Preservation Officer (SHPO) for review and comment September 2013. SITLA provided clearance for TomCo's proposed Small Mine Operation and is currently reviewing the cultural resources report to determine if the entire LMO PA can be cleared. No comments have been received from SHPO as of January 2, 2014. The Executive Summary of the Cultural Resources Report is provided in **Appendix G.**

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